APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,543	10/28/2003	Edward Jonathan Brush	2502985-991101	7841

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EXAMINER
VIG, NARESH

ART UNIT	PAPER NUMBER
3629	

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO 90C (Rev 10/03)

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.</td><td>Applicant(s)</td></tr>
<tr><td>10/696,543</td><td>BRUSH ET AL.</td></tr>
<tr><td></td><td>Examiner</td><td>Art Unit</td><td></td></tr>
<tr><td></td><td>Naresh Vig</td><td>3629</td><td></td></tr>
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _16 May 2005_.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _35-48_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _35-48_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _20050516_.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 1-04)   Office Action Summary   Part of Paper No./Mail Date 20050715

DETAILED ACTION

This is in reference to response received on 16 May 2005 to the office action mailed on 25 January 2005. There are 14 claims, claims 35 – 48 pending for examination.

Response to Arguments

In response to applicant's argument that Examiner rejected dependent claim 38 under 112, first paragraph, asserting that claim 38 does not recite or require the ability to determine when a home is sold. Instead, the claims discuss detecting or determining "when an obligation under a future real estate agreement has or may become due." When a piece of real estate is sold of offered for sale by owner. By way of example and without limitation, a future real estate agreement may require a home owner to use a specific agent "for a future listing." (Pending application, paragraph [0041]).

Applicant agrees that applicant's invention will function as desired when a real estate owner uses services of a real estate broker/agent who affiliated with the applicants system (specific agent). iGive teaches the limitation of customers using merchants affiliated with iGive.

In response to applicant's argument that the obligation would not become due if the home owner sold the home "by owner".

Applicant is arguing limitation not claimed by applicant. iGive teaches obligation to charities only for purchase made by customers from iGive affiliated merchants [iGive page 4, 17].

In response to applicant's argument that monitoring the MLS, where agents list properties, would be sufficient, in itself, to determine when a when a future real estate agreement became due.

Applicant is arguing limitation not claimed by the applicant.

In response to applicant's argument that the specification discusses many other data sources, beyond the MLS, that the computer system can be communicatively linked to that would allow a user to determine when a piece of property is sold. Although claim 38 mentions that the computer system is communicatively coupled to the MLS, there is nothing in the claim that would suggest MLS is the exclusive source of real estate information used by the system. The claimed system could use other sources of real estate data to determine when obligations under different types of real estate agreements became due.

Applicant is arguing limitation not claimed by the applicant.

In response to applicant's argument that neither iGive nor Sealand discloses future real estate agreements. The claims all include limitations relating to management of future real estate agreements.

Examiner has responded to this argument in response to claim 35.

In response to applicant's argument that all claims require "a relational database for storing information regarding one or more future real estate agreements"

Examiner has responded to this argument in response to claim 35.

In response to applicant's argument that computer system that is communicatively coupled to the relational database and that is adapted to allow a user to determine when an obligation under the at least one future real estate agreement has or may become due.

As responded to earlier, and, in response to claim 35, applicant's invention will work when the real estate owner uses service of real estate broker/agent (affiliated service providers). In independent claim 35, applicant is not claiming the limitation to affiliate service providers for the applicant's invention to function as desired.

In response to applicant's argument that the future real estate agreement is an agreement by the client to use a select provider in a future real estate transaction and may include: an agreement that the client will list the home for sale with a select provider (e.g., a real estate agent or broker); an agreement to allow a select provider

(e.g., a real estate agent or broker) to represent the client in the purchase of a

subsequent home; an agreement to use a select provider (e.g., a mortgage lender) for a

subsequent or refinanced mortgage; an agreement to use a select provider (e.g., a title

company, home owner's insurer or other real estate service provider) in a subsequent

real estate transaction; and the like. Such future real estate agreements are very

desirable to real estate service providers, since they add a significant future revenue

stream with little or no up front, out-of-pocket cost.

Applicant is arguing a limitation not claimed by the applicant.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 38 rejected under 35 U.S.C. 112, first paragraph, because the

specification, while being enabling for computer system communicatively coupled to an

MLS, does not reasonably provide enablement for determining when the real estate is

sold when the real estate is sold by the owner without using the services of a broker, a

owner may sell the home by advertising in a local newspaper, by posting a "For Sale"

sign on the property, etc. The specification does not enable any person skilled in the art

to which it pertains, or with which it is most nearly connected, to determine when the

property is sold directly by the owner unless the real estate purchase/owner uses the

services of service provider affiliated with applicant's system.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 38 – 44 and 46 – 48 are rejected under 35 U.S.C. 103(a) as being

unpatentable over iGive.com, Inc. hereinafter known as iGive in view of Sealand et al.

US Publication 2003/0014402.

Regarding claim 35, in the application originally filed 28 October 2003 applicant

recites "For example, charities, non-profit organizations (e.g., universities, churches and

other academic or religious institutions), and other fundraising entities (e.g., political

parties, candidates or action committees) may contact their donors, alumni or

contributors to enter into a future real estate agreement. A middleman or real estate

provider may receive the future real estate agreement and provide a financial incentive

or donation to the charity, non-profit organization or other fundraising entity on behalf of

the individual entering into the agreement. This allows donors, alumni and contributors

to financially benefit charities, non-profit organizations, and other fundraising entities of

their choice at no direct cost to themselves. Furthermore, the donors and alumni might

also receive a potential tax benefit in return".

iGive teaches system and method which allows customers to make purchase

from their affiliated merchants (middleman who enables iGive to make donation to

charity specified by customer) [page 1]. In applicant's real estate broker/agent is the

merchant which enables applicant to make donation on behalf of real estate owner. One

of ordinary skill in the art may modify iGive and limit merchants to real estate

brokers/agents who enable applicant to make donation to charitable institutions on

behalf of real estate owner when they use the services of applicant's affiliated

businesses. Therefore, iGive teaches system and method for managing future real

estate agreements (real estate owner using services of real estate brokers/agents who

are affiliated with iGive, field of use).

iGive teaches does not teach using a database. However, Sealand teaches

system and method for transacting retrieval of real estate property listings using a

remote client interfaced over an information network.

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify iGive as taught by Sealand to organize the data

for retrieval at a later time.

iGive in view of Sealand does not explicitly teach using a relational database.

However, it is a design choice to decide what file storage architecture to use retrieving

data at a later time. For example, one of ordinary skill in the art may decide to use

indexed files, hierarchical database, sorted non-indexed file, commercially available

relational databases like Oracle, Sybase, DB/2 etc. for storing data,

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify iGive in view of Sealand and use relational

database to use the off the shelf database to organize the data and allow user to extract

the information using Structured Query Language (SQL)

iGive in view of Sealand teaches storing information regarding one or more future

real estate agreements (purchase made by iGive customers), including information

relating to charitable entities that may receive financial benefits as a result of the

agreements [iGive page 4]. iGive teaches capability to store information for retrieval at a

later time) [page 17, iGive keeps track of when the minimum amount is accrued for the

customer's selected cause before they will dispense the money to the selected cause);

With respect to the recitation in claim 35 defining what kind of data is being

stored on the database, this is considered to be non-functional descriptive material that

does not distinguish (define) over the applied prior art. Since the instant claims are

article claims and the type of data claimed is considered to be non-functional descriptive

material, the applied prior art satisfies the claim. The prior art stores data and is fully

capable of storing the claimed type of data, this is the extend to which weight will be

given to the claimed data. When descriptive material is not functionally related to the

article, the descriptive material will not distinguish the invention from the prior art in

terms of patentability, *In re Gulack*, 217 USPQ 401 (CAFC 1983).

IGive in view of Sealand teaches at least one computer system (it is obvious that iGive uses a computer system to provide its customers access to iGive website) that is communicatively coupled to the relational database (responded to earlier) and that is adapted to allow a user to determine when an obligation may become due (iGive allows its customers to query iGive system to see whether they have received credit for their purchase, purchase is the type of services that iGive wants its customer to make, iGive want its customers to forward email confirmations to get credit from their merchants) [iGive, page 17]. iGive teaches to determine when an obligation under one or more future real estate agreement (field of use for a transaction, purchase made by iGive customers from iGive affiliated merchants) has or may become due [page 32, "Simply be sure to start your online shopping at the Mall at iGive.com or through any iGive.com Newsletter. Doing so allows iGive.com to automatically track your shopping and credit your cause with the appropriate donation"].

Regarding claim 36, iGive in view of Sealand teaches at least one computer system is adapted to monitor the database (responded to earlier) to detect when an obligation under a future real estate agreement has or may become due [page 32, "Simply be sure to start your online shopping at the Mall at iGive.com or through any iGive.com Newsletter. Doing so allows iGive.com to automatically track your shopping and credit your cause with the appropriate donation"].

Regarding claim 37, iGive teaches at least one computer system is communicatively coupled to a realty data source (vendor associated with iGive, [page 12, 25, 26], Sealand Fig. 1A and disclosure associated with the figure) which provides data regarding the real estate transactions (data regarding transactions completed by the user).

Regarding claim 38, iGive in view of Sealand teaches computer system is communicatively coupled to an MLS system which provides data regarding property listings [Sealand Fig. 1A(14) and disclosure associated with Fig. 1A].

Regarding claim 39, iGive in view of Sealand teaches computer system allows users to search the database.

Regarding claim 40, iGive in view of Sealand does not teach future real estate agreements comprise future listing agreements. However, Official notice it taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made that a listing agreement is required for a seller to agree to allow the agent to sell the property. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify iGive in view of Sealand and have a listing agreement to generate a legal document between the seller and service provider.

Regarding claim 41, iGive in view of Sealand does not explicitly teach future real estate agreements comprise agreements for representation in the purchase of a new home. However, Official notice it taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made that it is a business choice to elect what product to sell on their system. iGive teaches capability to provide plurality of products from plurality of vendors.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify iGive in view of Sealand to handle purchase of new home to make the system attractable to the purchasers of new homes.

Regarding claim 42, iGive in view of Sealand does not explicitly teach future real estate agreements comprise agreements for mortgage services. However, Official notice it taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made that it is a business choice to elect what product to sell on their system. iGive teaches capability to provide plurality of products from plurality of vendors.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify iGive in view of Sealand to handle purchase of new home to make the system attractable to the purchasers of real estate by providing full service system.

Regarding claim 43, iGive in view of Sealand does not explicitly teach future real estate agreements comprise agreements for title services. However, Official notice it taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made that it is a business choice to elect what product to sell on their system. iGive teaches capability to provide plurality of products from plurality of vendors.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify iGive in view of Sealand to handle purchase of new home to make the system attractable to the purchasers of real estate by providing full service system.

Regarding claim 41, iGive in view of Sealand does not explicitly teach future real estate agreements comprise agreements for home owner's insurance services. However, Official notice it taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made that it is a business choice to elect what product to sell on their system. iGive teaches capability to provide plurality of products from plurality of vendors.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify iGive in view of Sealand to handle purchase of new home to make the system attractable to the purchasers of real estate by providing full service system.

Regarding claim 46, iGive in view of Sealand teaches computer system comprises an input device that is adapted to receive information regarding the future real estate agreements (business choice to decide what products to sell, and, the data received is associated with the type of product which the business has decided to sell).

Regarding claim 47, iGive in view of Sealand teaches output device that is adapted to display output information from the at least one computer system [page 12].

Regarding claim 48, as responded to earlier in response to claim 35 – 44, iGive in view of Sealand teaches computer system is further adapted to create electronic records regarding the future real estate agreements (field of use) and store the electronic records in the relational database (for retrieval at a later time).

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over iGive.com, Inc. hereinafter known as iGive in view of Sealand et al. US Publication 2003/0014402 and Elston US Patent 6,055,505.

Regarding claim 45, iGive in view of Sealand does not teach to generate electronic notifications to affected parties regarding obligations that have become due (content of notification is field of use). However, Elston teaches system and method for automatically notifying a customer of an event using a telecommunications system.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify iGive in view of Sealand as taught by Elston to automate the notification process (In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958)).

Conclusion

Applicant is required under 37 CRF '1.111 (c) to consider the references fully when responding to this office action.
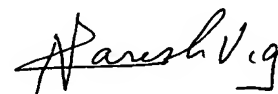
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is (571) 272-6810. The examiner can normally be reached on M-F 7:30 - 6:00 (Wednesday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Naresh Vig
Examiner
Art Unit 3629

July 15, 2005